

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In Re:

**AREDIA® AND ZOMETA® PRODUCTS
LIABILITY LITIGATION**

(MDL No. 1760)

**This Document Relates to:
(ALL CASES)**

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No. 3:06-MD-1760

Judge Campbell/Brown

ORDER

Compliance with the case management order (CMO) (DE 89 as amended (DE 103, 6579)) in this multi-district litigation continues to be a problem. The CMO requires counsel to file a suggestion of death within 90 days of a plaintiff's death, to move for substitution within 90 days of a suggestion of death upon the record, and to ensure within 30 days of a suggestion of death upon the record that a personal representative has been appointed, and an estate opened, where such action is required by state law.

The purpose of this order is to clarify the Magistrate Judge's position regarding the CMO for all concerned. The CMO has been the law of the case since July 2006, more than 8 years. As the law of the case, compliance with the CMO is not optional . . . it is mandatory. Accordingly, counsel shall take affirmative steps upon receipt of this order to bring their cases into compliance with the CMO. Counsel are on notice that failure to do so may result in a recommendation of dismissal and/or sanctions.

The Magistrate Judge understands that there may be situations in which the requirements of the CMO cannot be met within the required time frames. In those situations, it is incumbent on counsel to file a timely motion for an extension of time to comply. The Magistrate Judge has stated repeatedly that a timely motion for an extension of time to comply with the CMO will be granted,

if the grounds for the requested extension of time are reasonable and do not constitute an abuse of process.

It is so **ORDERED**.

ENTERED this 9th day of September, 2013.

/s/Joe B. Brown
Joe B. Brown
United States Magistrate Judge